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Alex Mashinsky

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EXAMINER

KUDDUS, DANIEL A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,264	Applicant(s) MASHINSKY, ALEX	
	Examiner DANIEL KUDDUS	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-11, 14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11, 14 and 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action has been issued in response to amendment filed March 02, 2010. In response to last office action, claims 9, 16-19 and 22 have been amended. Claim 24 is newly presented. Claims 9-11, 14 and 16-24 remain pending in this application. Applicant's arguments are carefully and respectfully considered and some are persuasive, while others are not. Accordingly rejections have been removed where arguments were persuasive, but rejections have been maintained where arguments were not persuasive. Also, a new rejections based on the newly added amendments have been set forth. Accordingly, claims 9-11, 14 and 16-24 are rejected and this action has been made **FINAL**, as necessitated by amendment.

Response to Arguments

2. With respect to applicant's arguments on pages 10-12, "*the presently amended independent claim 9 recites...among other things...receiving by an information exchange new web-based content uploaded from information providers or administrators, the information exchange being configured for receiving web-based content from web-based network sources....Ueda...does not disclose or teach...this limitation...Crandall also does not disclose....receiving by an information exchange....network sources...Ueda and Crandall, either singly or in combination, do not disclose or teach all of the limitations of the presently amended claim 9. Accordingly, each of dependent claims 10-11, 14, 16-24 is patentable....requested*". The Examiner respectfully disagrees with applicant's arguments. Ueda in fact teaches the limitations amended claim 9. Ueda teaches receiving by an information exchange new web-based content uploaded from information providers or administrators, the information exchange being configured for receiving web-based content from web-based

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network sources (see abstract, location-based information intermediation and acquisition method...information provided by a content server...transmits an information source and distribution condition list to the mobile communication terminal...transmits an information source and distribution condition (i.e. information exchange) list to the mobile communication terminal.. receive the location-based information for presentation...figure 4, web-based content, [0069], e.g. new list may be received, [0132], a web server (for the intranet).. [0154], a web browser for an HTML file (i.e. web based content), [0153], receives the location-based information.. resides in the specific content server.. in response to the content request from the mobile communication terminal, figure 9, [0143], uploading the information source and distributing conditions basic data to the information source and distributing conditions basic data file of the intermediation computer system, and selecting or retrieving specific information source and distributing conditions basic data satisfying the search criteria in the information source and distributing conditions basic data file).

As such, Examiner concludes that taken alone or in combination of Ueda and Crandall teaches the limitations amended claim 9. Further, teaches the limitations of dependent claims 10, 11, 14 and 16-24, which have been addressed in the detailed office action.

It is a well settled rule that a reference must be considered not only for what it expressly teaches but also for what it fairly suggests. See *In re Burckel*, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979) and *In re Lamberti*, 545 F.2d 747, 192 USPQ 278 (CCPA 1976) as well as *In re Bode*, 550 F.2d 656, 193 USPQ 12 (CCPA 1977) which indicates such fair suggestions to unpreferred embodiments must be considered even if they were not illustrated. Additionally, it is an equally well settled rule that what a reference can be said to fairly suggest relates to the

concepts fairly contained therein, and is not limited by the specific structure chosen to illustrate such concepts. See *In re Bascom*, 230 F.2d 612, 109 USPQ 98 (CCPA 1956).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 9-11, 16-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US 2002/0184200 A1) and further in view of Crandall et al. (US 6321228 B1), hereinafter, Crandall.

With reference to claim 9, Ueda teaches **a computer-implemented method for exchanging newly added information over the Internet, comprising: receiving by an information exchange new web-based content uploaded from information providers or administrators, the information exchange being configured for receiving web-based content from web-based network sources** (see abstract, figure 4, [0069], ¶ [0132], exchange mobile communication terminal network, the Internet or an intranet, the content server, an application server, and a client computer, [0153], [0154], figure 9, [0143], uploading the information source and distributing conditions basic data to the information source and distributing conditions basic data file of the intermediation computer system, and selecting or retrieving specific information source and distributing conditions basic data satisfying the search criteria in the information source and distributing conditions basic data file, [0019]), **receiving and storing by the information exchange search queries as static queries in a system database, which are used**

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for retrieving information pertaining to the static queries from the internet, said static queries being input from users or subscribers to the information exchange (see ¶ [0134], a user authentication request, or a static search criteria (unchanging search criteria) registration request, [0143], [0136]), **monitoring at the information exchange to determine whether any new uploaded web-based content has been added to the information exchange by the information providers or the administrators** (see ¶ [0267], terminal network and the internet so that it can monitor to perform operation), **determining at the information exchange whether any new uploaded web-based content is responsive to the static queries; and** (see ¶ [0140], the session ID is authenticated and the static search criteria configured by the user is registered in the static search criteria part in the user data file, [0138]), **when the new uploaded web-based content matches the static queries, sending, over the internet, the matching web-based content to the users or subscribers who entered the static queries** (see ¶ [0134], if matched, the user is authenticated and then a session ID is registered in the session ID data file and a static search criteria setting screen is sent with the session ID to the requesting party. The request is checked whether it is authorized or not by referring the session ID data file and simultaneously the static search criteria are registered in a static search criteria part in the user data file), **combining at the information exchange the static queries with other information provided by at least one of device, computer, web service and search engine used; and** (see [0153], [0155], a cellular phone type mobile communication terminal, a ringer tone or a vibration may be generated to notify the reception, [0038], [0019], [0243], in the case of a category such as a train timetable, when the mobile communication terminal approaches a station, the time for departure of the several trains after the present time that are bound for the destination may be

presented in combination with a reception notification signal, [0247]), **translating at the information exchange the static queries and said other information into a complex query based on at least one of a user's profile, other previously entered user information, and of search results and events** (see figure 11, ¶ [0138], an authorized mobile communication terminal by comparing its user ID and password with ones in the user data file, and if authenticated, the session ID is issued and registered in the session ID data file, and on the other hand, a notification of registration completion is sent to the requesting party, figure 7), **wherein the other information comprises advertisements stored in an ad database** (see [0270], perform billing operation depending upon the amount of the packets and issue a billing report, [0132]).

Ueda does not explicitly teach the limitation of a ranking. Although Ueda teaches categorization (see figure 11). However, Crandall teaches a ranking (see column 2, line 10-19).

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have modified the teaching of Ueda by applying the teaching of Crandall for a system that enables internet users to access selected records retrieved from result sets that are derived from earlier search queries. Thus, when the user submits a search query to the system, it returns selected records from the collection and rank databases, in addition to other related web sites from the internet (see Crandall, column 2, line 10-30).

With reference to claim 10, Ueda teaches **wherein the information exchange receives queries via brokers or aggregators or search engines in data feeds** (see ¶ [0162], a verification engine part that is a program to verify the behavior of the mobile communication

terminal against the distribution conditions of the information source and distribution condition list is separated as an independent program).

With reference to claim 11, Ueda teaches **wherein the queries are generated by an operating system or a specific application while a user operates a wireless device or a computer or each time a search is performed using a browser or the Internet** (see ¶ [0155], a cellular phone type mobile communication terminal, a ringer tone or a vibration may be generated to notify the reception).

With reference to claim 16, Ueda teaches **continuing to monitor the uploaded data at the information exchange to determine whether new web-based content has been added to the information exchange by the information providers or the administrators** (see ¶ [0291], monitor statistics such as an access frequency by location of mobile communication terminals or an access frequency to each of the contents in order to make use of the statistics for enriching or renovating the contents).

With reference to claim 17, Ueda teaches **wherein said determining step includes the step of analyzing, text searching and the matching web-based content prior to translating the matched web-based content into a web link in a message engine** (see ¶ [0135], the packet exchange mobile communication terminal network is executed to ensure connection to a wireless line or a higher protocol network).

Ueda does not explicitly teach the limitation of prioritizing. Although Ueda teaches categorization (see figure 11). However, Crandall teaches prioritizing (see column 2, line 10-19).

With reference to claim 18, Ueda teaches **wherein said determining step includes the step of analyzing, text searching and the matching web-based content prior to combining**

the matching web-based content with statistical or relevant data and control module (see ¶ [0135] and [0132]),

Ueda does not explicitly teach prioritizing, stored in an index. Although Ueda teaches categorization (see figure 11). However, Crandall teaches prioritizing, stored in an index (see column 2, line 10-19, column 1, line 47-51).

With reference to claim 19, Ueda teaches **attaching advertising or promotional information provided by third parties to the matching web-based content based on subscriber queries or a topic sent to a profile of the subscribers** (see ¶ [0034], attaching search conditions for the location-based information provided on a network, receiving and presenting the location-based information by accessing the verified information source, [0247, [0270]).

With reference to claim 20, Ueda teaches **charging subscribers and third parties a fee at the information exchange for distributing information** (see ¶ [0065], charge may be billed from the content providers who expect a profit by providing mobile communication terminals in a distribution area with contents).

With reference to claim 22, Ueda teaches **wherein the matching web-based content is sent to the user or subscriber who entered the static queries over the over the Internet to a device** (see ¶ [0143], selecting or retrieving specific information source and distributing conditions basic data satisfying the search criteria in the information source and distributing conditions basic data file, [0153]).

With reference to claim 23, Ueda teaches **wherein the specific device is at least one of a computer, a cell phone and a PDA** (see ¶ [0014, a PDA or a note PC).

4. Claims 14, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US 2002/0184200 A1), Crandall (US 6321228 B1) and further in view of Roth et al. (US 2002/0029186 A1), hereinafter Roth.

Ueda and Crandall disclose the claimed invention as detailed above in the previous paragraph. Ueda and Crandall do not teach all of the limitations of claims 14, 21 and 24.

With reference to claim 14, Ueda teaches claimed invention except for the limitation of to place bids. Ueda teaches **wherein advertisers use a website and the system database, and contract with the information exchange to deliver specific ads and information to targeted users or subscribers** (see [0267], [0259], page 20, claim 5). Roth teaches the limitation of place bids (see ¶ [0007], e.g. bids submitted by different advertisers).

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have modified the teaching of Ueda by applying the teaching of Roth to evaluate, in real time, bids submitted by different advertisers in order to determine which particular advertisement will be displayed to a viewer (see Roth [0007]).

With reference to claim 21, Ueda teaches claimed invention except for the limitation of advertisers bid. Ueda teaches **wherein the fee is based on at least one of an agreed amount, a transaction fee and a dynamic market in which, for a right to be included first in notifications** (see ¶ [0259], the shared portion in the transmitted data may be bundled together irrespective of the used encoding method and consequently, an amount of transmitted data may be reduced and transfer time and transfer costs may also be kept low, [0267]). Roth teaches advertisers bid (see [0007]).

With reference to claim 24, Ueda teaches **wherein the events includes at least one of news, keywords and changes in prices** (see [0009], each proposed bid can specify a price or amount that the advertiser is willing to pay for the opportunity to display an advertisement).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Daniel A Kuddus whose telephone number is (571) 270-1722. The examiner can normally be reached on Monday to Thursday 8.00 a.m.-5.30 p.m. The examiner can also be reached on alternate Fridays from 8.00 a.m. to 4.30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or processing is assigned is 571-273-8300. Information

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regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Kuddus

Date: 04/02/10

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164